

TITLE 8. CALIFORNIA CODE OF REGULATIONS  
DEPARTMENT OF INDUSTRIAL RELATIONS

NOTICE OF PROPOSED RULEMAKING

The Department of Industrial Relations (Department) proposes to adopt the regulation described below after considering all comments, objections or recommendations regarding the proposed action. Specifically, the Department proposes to adopt Section 13800, Collection Cost Fees: Referrals to the Franchise Tax Board, in Title 8 of the California Code of Regulations, to establish a collection cost fee which will be imposed on judgment debtors that have been referred by the Department and its component divisions to the Franchise Tax Board (FTB) for collection.

PUBLIC HEARING

The Department has scheduled a public hearing on this proposed action:

Date: October 22, 2007  
Time: 10:00 a.m.  
Place: 801 K Street, 23<sup>rd</sup> Floor Conference Room  
Sacramento, CA 95814

Please note that public comment will begin promptly at 10:00 a.m., and will conclude at 12 noon or when the last speaker has finished his/her presentation, whichever occurs first. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or authorized representative, may submit written comments to the Department relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on October 22, 2007. The Department will consider only comments received in its office by that time. All comments must be submitted in writing (by mail, fax, or e-mail) and received by that time by the Department's Legislation and Regulation Coordinator. Submit comments to:

Alison Breen, Legislation and Regulation Coordinator  
Department of Industrial Relations  
Division of Labor Standards Enforcement  
801 K Street, Suite 2100  
Sacramento, CA 95814  
E-mail: [abreen@dir.ca.gov](mailto:abreen@dir.ca.gov)  
FAX (916) 322-1267

## AUTHORITY AND REFERENCE

Revenue and Taxation Code §19290(a) authorizes the Department to promulgate the proposed regulation, which will implement, interpret and make specific Revenue and Taxation Code §19290(a) as follows:

Revenue and Taxation Code §19290(a) specifies that the Department is to enter into an interagency agreement with the FTB to collect unsatisfied judgments and delinquent debts assessed under the Labor Code. This statutory section also provides that the Department is to adopt rules and regulations to provide for a reasonable fee to cover actual collection costs, and that, whenever possible, the collection costs shall be borne by the judgment debtor.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing statute specifies that the Department is to enter into an interagency agreement with the FTB to collect unsatisfied judgments (issued pursuant to Labor Code §§ 98.2, 226.5, 1023, 1289, 2681, and 6650) and delinquent debts based upon final determinations by the Department following the exhaustion of appeal remedies (pursuant to Labor Code §§ 98.3, 210, 1174.5, 1193.6, 1194, 1194.2, 1197.1, 1197.5, 1771, 1774, 3722, 7314, 7350, 7721, and 7904). This statutory section also provides that the Department is to adopt rules and regulations to provide for a reasonable fee to cover actual collection costs, and that, whenever possible, the collection costs shall be borne by the judgment debtor.

The proposed regulation would establish a collection cost fee which will be imposed on the judgment debtor to cover actual collection costs.

## DISCLOSURES REGARDING THE PROPOSED ACTION

### **Local Mandate Determination:**

The Department has determined that the proposed regulatory action does not impose any mandate on local agencies or school districts.

### **Costs on Local Agencies or School Districts:**

The Department has determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action. Furthermore, the Department has determined that the proposed regulatory action does not impose costs on any local agency or school district which must be reimbursed in accordance with Government Code Section 17561.

### **Cost or Savings to State Agencies:**

The Department has estimated that a total annual savings of approximately \$55,200 to the State will result from the proposed regulatory action. This figure was arrived at by multiplying: [the collection cost fee] by [the estimated number of annual cases] by [the percentage of cases in which recovery is successful]. Specifically:

\$115 [collection cost fee] x 2,400 [estimated number of annual cases] x 20% [percentage of cases for which collection is successful] = \$55,200 [annual total of collection cost fees recovered]

**Significant Statewide Adverse Economic Impact Directly Affecting Businesses:**

The Department has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact on directly affected businesses, including the ability of California businesses to compete with businesses in other states.

**Creation, Elimination, or Expansion of Jobs or Businesses (Results of Assessment under Government Code Section 11346.3(b)):**

The Department has made an initial determination that adoption of this regulation will not: (1) create or eliminate jobs within the State of California; (2) create new businesses or eliminate existing businesses within the State of California; or (3) affect the expansion of businesses currently doing business in California.

**Effect on Small Business:**

The Department has determined that this proposed regulation will affect small businesses.

**Cost Impacts on Representative Private Persons or Businesses:**

The Department has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. The proposed fee of \$115 would be imposed on each judgment or delinquent debt referred by the Department to FTB for collection. The proposed amount of the fee is relatively low. Consequently, any potential cost impact on representative private persons or businesses would be insignificant and minimal.

**Effect on Federal Funding to the State:**

The Department has determined that the proposed regulatory action results in no costs or savings in federal funding to the State.

**Effect on Housing Costs:**

The Department has made an initial determination that the adoption of this regulation will have no significant effect on housing costs.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, the Department must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory action. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the hearing or during the written comment period.

### CONTACT PERSONS

The text of the proposed regulation, the initial statement of reasons, and the modified text of the regulation, if any, may be accessed at the Department's website (<http://www.dir.ca.gov>). Requests for paper copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based should be directed to:

Alison Breen, Legislation and Regulation Coordinator  
Department of Industrial Relations  
Division of Labor Standards Enforcement  
801 K Street, Suite 2100  
Sacramento, CA 95814  
Telephone: (916) 322-3157  
FAX (916) 322-1267

In the event the contact person is unavailable, inquiries regarding the proposed regulatory action should be directed to the following backup contact person:

Robert Villalovos, Staff Counsel  
Department of Industrial Relations  
Division of Labor Standards Enforcement  
2031 Howe Avenue, Suite 100  
Sacramento, CA 95825  
Telephone: (916) 263-2918

Inquiries concerning the substance of the proposed action may be directed to Alison Breen at the address and phone number specified above.

AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATION

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its San Francisco headquarters office at 455 Golden Gate Avenue, 9th Floor West, San Francisco, CA 94102. A copy will also be available at 801 K Street, Suite 2100, Sacramento, CA 95814, as specified herein. Additionally, this notice of proposed action, the initial statement of reasons, and the proposed text of the regulation are also available on the Department's website (<http://www.dir.ca.gov>). As of the date this notice is published in the Notice Register, the rulemaking file consists of: (1) this notice; (2) the proposed text of the regulation; (3) the initial statement of reasons; (4) the Economic and Fiscal Impact Statement (Form 399); (5) 2006/2007 Interagency Agreement between the Department and FTB for collection services; and (6) May 2004 Bureau of State Audits Report 2003-131. Copies may be obtained by contacting Alison Breen at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the Department adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Alison Breen at the address indicated above. The Department will accept written comments on the modified regulation for 15 days after the date on which they are made available.

### AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code Section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on the Department's website (<http://www.dir.ca.gov>).